

the housing should be made available before the building of space is to be completed. The 6-month period is provided for in the Memorandum of Understanding, and it is appropriate to permit a leeway in these initial procedures. The Memorandum of Understanding does provide that the Memorandum will be reviewed at the end of each year and modified to incorporate any provision necessary to improve its effectiveness in light of actual experience. The validity of the 6-month period will be examined at the time the Memorandum is reviewed.

Several of the comments suggested that the procedures provide for more assurance that an Affirmative Action Plan will be carried out. The provisions relating to the Affirmative Action Plan have been revised to provide that all agreements which constitute the Plan will be signed not only by the appropriate representatives of HUD, GSA, and the Federal agency involved, but also by community bodies and agencies and other interests whose cooperation and/or participation will be necessary to fulfill the requirements of the Plan. In addition, the Plan will provide assurance by the relocating agency that, when the old and new facilities are within the same metropolitan area, transportation will be provided for the agency's low- and moderate-income employees between the old facility or other suitable location and the new facility at the beginning and end of the scheduled workday until sufficient new housing is built accessible to the new facility as provided in the Plan. Since several of the other provisions of the Plan set forth in the proposed procedures were adopted verbatim from the provisions of the Memorandum of Understanding, it is considered unnecessary to repeat these provisions, and they have instead been incorporated by reference to section 9(g) of the Memorandum of Understanding.

Several other comments criticized the procedures for not addressing the issue of nondiscrimination in the sale and rental of housing, in addition to the matter of an adequate supply of low- and moderate-income housing on a nondiscriminatory basis, since discrimination in housing can occur at higher levels as well. Revisions have been made in the procedures to include a determination by HUD of the extent of discrimination in sales or rentals in all housing, not just low- and moderate-income housing. Affirmative action plans will contain appropriate provisions designed affirmatively to further nondiscrimination in the sale or rental of housing.

The definition of "low- and moderate-income" has been revised to take into account the variations in income levels in different housing market areas.

There were several comments with respect to transportation standards, and there was criticism particularly of the difference in travel time permitted between that of low- and moderate-income employees and that of higher-income employees. The criticism is well taken, and the 15-minute difference has been deleted. In addition, the travel time requirements for lease actions were inad-

vertently omitted from the proposed procedures. Also, with respect to transportation, the revised procedures provide that the Affirmative Action Plan will insure that there is adequate transportation from housing to the site.

In response to a comment requesting particularity with respect to information which will be made available to the public, the procedures now contain a specific provision that the Affirmative Action Plan will be made public after the final site selection decision has been made by GSA.

These procedures provide the elements essential for implementation of the Memorandum of Understanding and were never intended to contain all the details of implementation. The Department has initiated the preparation of a Handbook which will include a more detailed explanation of the procedures. In this connection, there were numerous other comments suggesting inclusion of items in the procedures. The suggestions raised by these comments will instead be considered for inclusion in the Handbook. Examples of such comments are: Consideration of restrictive zoning ordinances and building codes and existence of an adequate local fair housing law in making determinations regarding discrimination in housing as well as in setting requirements of Affirmative Action Plans; provision of counselling services for the involved Federal agency's employees; consultation with outside organizations, such as civil rights groups, during the investigation period; and standards and methods for determining that there is nondiscrimination in housing and that an adequate supply of low- and moderate-income housing is available on a nondiscriminatory basis.

One comment suggested that a general area survey be done for the Washington Metropolitan Area as soon as the procedures are implemented, in light of the high concentration of Government facilities in the area. Priorities for the conduct of general area surveys will be determined and surveys will be conducted in accordance with the priorities by the appropriate regional offices as soon as feasible. The Washington Metropolitan Area will be among the earliest areas surveyed.

The procedures are as follows:

1. *Purpose.* This notice establishes the procedures by which the Department of Housing and Urban Development (HUD) will implement the Memorandum of Understanding between the Department of Housing and Urban Development and the General Services Administration Concerning Low- and Moderate-Income Housing executed on June 12, 1971, and published in the FEDERAL REGISTER on December 1, 1971 (36 F.R. 22873). The Memorandum of Understanding is intended to insure the availability of housing on a nondiscriminatory basis for low- and moderate-income employees of new and relocating Federal facilities. For the purpose of these procedures, "low- and moderate-income" is defined as income up to and including the median family

income established by HUD for the housing under consideration. In the case of General Salary Schedule employees: "low- and moderate-income" is inclusive of all grade levels from GS-1 through that grade level the midpoint of which is nearest to the dollar figure of the median family income for the area; "high-income" is defined as all General Salary Schedule grade levels above such grade level.

2. *Background.* (a) Decisions of the Federal Government concerning location or relocation of Federal facilities may have a major impact on Federal employees, particularly lower grade and minority employees.

(1) The impact on employees can be seriously adverse if facilities are established in areas with an inadequate supply of low- and moderate-income housing.

(2) The problem is even more acute for minority employees if problems of racial and ethnic discrimination further constrain the housing supply near a new or relocated facility.

(b) The General Services Administration (GSA) has responsibility for planning, developing, and constructing Government-owned public buildings for housing Federal agencies, and for acquiring leased space for Federal agency use.

(c) The Secretary of the Department of Housing and Urban Development has the responsibility under the Federal fair housing law (title VIII of the Civil Rights Act of 1968) for coordinating the efforts of all Federal Departments and Agencies to administer their programs of housing and urban development in a manner affirmatively to further the goals of fair housing.

(d) The Department of Housing and Urban Development has prime responsibility for assisting the development of the nation's supply of low- and moderate-income housing.

(e) The Memorandum of Understanding was agreed to as a means of coordinating the respective responsibilities of GSA and HUD.

3. *Responsibility.* (a) The Department of Housing and Urban Development has the responsibility:

(1) To investigate, determine, and report findings to GSA on the availability of low- and moderate-income housing to Federal employees on a nondiscriminatory basis to serve proposed locations for a federally constructed building or a major lease action.

(2) To participate in site investigations for the purpose of providing a report to GSA on the availability of low- and moderate-income housing on a nondiscriminatory basis in or readily accessible to the delineated area within which specific sites will be considered.

(3) To develop jointly with GSA, the Federal agency involved and the community, an Affirmative Action Plan where HUD has determined that GSA's preferred location for the federally constructed building or leased space is not readily accessible to an adequate supply of low- and moderate-income housing on

a nondiscriminatory basis in accordance with the HUD-GSA Memorandum of Understanding.

(4) To give priority consideration to applications for assistance under HUD housing programs for housing proposed to be provided in accordance with the Plan.

(b) *The General Services Administration has the responsibility:*

(1) To consider the availability of low- and moderate-income housing on a nondiscriminatory basis to the maximum possible extent compatible with other considerations in making determinations with respect to the location of federally constructed buildings and the acquisition of leased space.

(2) To provide HUD with the information necessary to carry out its responsibilities, including, but not limited to, notice that GSA is undertaking a project development investigation, notice of the time and place for site investigations, copies of the prospectus for each public building or lease-construction project, and any pertinent information supplied to GSA by the agency involved in the relocation, including number of low- and moderate-income employees expected to be employed at the new location.

(3) To advise HUD when the GSA site investigators recommend a site for selection which HUD has reported unsuitable because it is not reasonably accessible to an adequate supply of low- and moderate-income housing on a nondiscriminatory basis.

(4) To provide HUD with a written explanation when, after headquarters' review, a location is selected which HUD has reported unsuitable because it is not reasonably accessible to an adequate supply of low- and moderate-income housing on a nondiscriminatory basis.

(5) To develop jointly with HUD, the Federal agency involved and the community, an Affirmative Action Plan where HUD has determined that GSA's preferred location for the federally constructed building or leased space is not readily accessible to an adequate supply of low- and moderate-income housing on a nondiscriminatory basis in accordance with the HUD-GSA Memorandum of Understanding.

(c) Federal agencies considering relocation have the responsibility:

(1) To consider to the maximum possible extent the availability of low- and moderate-income housing on a nondiscriminatory basis to employees likely to be employed at a new site.

(2) To provide such data with respect to employees being relocated as may be requested by GSA and HUD.

(3) To develop jointly with HUD, GSA and the community, an Affirmative Action Plan where HUD has determined that GSA's preferred location for the federally constructed building or leased space is not readily accessible to an adequate supply of low- and moderate-income housing on a nondiscriminatory basis in accordance with the HUD-GSA Memorandum of Understanding.

4. *Responsibilities within HUD for implementation of the HUD-GSA Memorandum of Understanding.* (a) The As-

sistant Secretary for Equal Opportunity is responsible for the implementation of the Memorandum of Understanding. He will maintain liaison at the national level with the Commissioner, Public Buildings Service, GSA, concerning questions of policy and overall implementation.

(b) The HUD Regional Administrator is responsible for coordinating the implementation of this program in the Region, and for providing GSA with HUD's recommendation on specific sites.

(c) The Assistant Regional Administrator for Equal Opportunity is responsible for consolidating information and recommendations to the HUD Regional Administrator including any Affirmative Action Plans that may be required. In this connection, he shall be assisted by the Assistant Regional Administrators for Housing Production and Mortgage Credit and for Community Planning and Management, the Regional Economist and other appropriate staff.

(d) Directors of Area Offices are responsible for providing the data needed for making recommendations to the HUD Regional Administrator concerning the adequacy of specific sites with respect to the availability of low- and moderate-income housing on a nondiscriminatory basis for the Federal employees that will occupy the facility at such location.

(e) The Director of the Equal Opportunity Division in the Area Office will serve as the Department's representative on site investigation teams.

5. *Actions subject to the procedures in this notice.*

(a) All project development investigations are subject to the procedures herein.

(b) Site selections for public buildings (or leased space in buildings to be erected by the lessor) are subject to the procedures herein in all cases in which 100 or more low- or moderate-income employees are expected to be employed in the new building.

(c) Lease actions (other than those included in (b) above) are subject to the procedures herein where:

(1) 100 or more low- or moderate-income employees are expected to be employed in the space to be leased, and

(2) If the lease involves residential relocation of a majority of the existing low- and moderate-income work force at a presently existing facility, or a significant increase in their transportation or parking costs, or travel time to the new location will exceed 45 minutes or a 20-percent increase if travel time to the present facility already exceeds an average of 45 minutes.

(d) GSA may request HUD review in actions of special importance not covered by (b) and (c).

6. *Project development investigation.* (a) Project development investigations are general surveys of a metropolitan area conducted by GSA for the purpose of identifying specific needs for Federal or lease construction or major alteration projects for housing Federal activities.

(b) The Regional Director, Public Buildings Service (PBS), will inform the HUD Regional Administrator of the initiation of a project development investigation and the area being surveyed.

(c) The HUD Regional Administrator will develop and transmit to the Regional Director, PBS, a report on the survey area which includes the following information:

(1) Summary information on general type, location, cost, and vacancy rates for all low- and moderate-income housing in the survey area. Recent FHA market analyses are acceptable for this purpose.

(2) A listing, by location, of all HUD subsidized housing in the survey area. The racial occupancy of such housing and its vacancy rate should be included. (Use data from HUD Forms 9801 and 51235.)

(3) An estimate, by general location, of the supply of other low- and moderate-income housing in the survey area which would meet the standards for relocation housing contained in the HUD Relocation Handbook (1371.1) Chapters 2 and 4. The estimated racial occupancy of such housing, or the neighborhood in which it is located, should be included, as well as vacancy rates.

(4) A listing, by location, of all subsidized housing planned within the survey area for the 1-year period following the survey.

(5) A listing of competing displacement needs for the subsidized housing planned in (4), above.

(6) A delineation of the geographic boundaries of all urban renewal, neighborhood development project, code enforcement, and model cities areas.

(7) A delineation of those subareas within the survey area which appear accessible to a supply of low- and moderate-income housing on a nondiscriminatory basis, and those which do not so appear.

(8) A determination of the extent of discrimination in the sale and rental of housing.

7. *Site investigation and selection for new construction.* (a) In cases where the Regional Office of GSA is investigating sites for construction of a specific proposed facility, the Regional Director, PBS, will transmit to the HUD Regional Administrator in whose region the facility is to be located the following information:

(1) The number of low- and moderate-income jobs anticipated at the new or relocated facility when fully staffed.

(2) The delineated area within which specific sites will be considered or, if available, the sites under consideration.

(b) The HUD Regional Administrator, within a time period mutually agreed upon with the Regional Director, PBS, will:

(1) If there exists a General Area Survey (see 6(c), above), completed within the preceding 12 months,

(a) Review the delineated areas against affirmative or negative recommendations in the General Area Survey and update judgments pertaining to the extent of discrimination in the sale and

rental of housing and the availability on a nondiscriminatory basis of low- and moderate-income housing in or readily accessible to the delineated areas.

(B) Make recommendations to the Regional Director, PBS, as to those areas reviewed, with respect to the matters referenced in (b) (1) (A).

(2) In the absence of a current General Area Survey, the HUD Regional Administrator will:

(A) Develop a survey of the delineated area similar to the General Area Survey described in 6(c), above.

(B) Make recommendations to the Regional Director, PBS, as to those areas reviewed, with respect to the matters referenced in (b) (1) (A).

(c) Where specific sites are identified, the HUD Regional Administrator will examine them in the light of the General Area Survey and the transportation linkages between the specific sites and any housing deemed available.

(1) *Public transportation.* Public transportation should be available to the facility from any low- or moderate-income housing available on a nondiscriminatory basis on a regular schedule providing arrival and departure conveniently close to the opening and closing of business. Travel time should not exceed the estimated travel time from housing for higher-income employees.

(2) *Private transportation and parking.* Where public transportation is unavailable, or does not meet the standard of (c) (1), above, travel time by automobile to the facility from any low- or moderate-income housing available on a nondiscriminatory basis should not exceed the estimated travel time from housing for higher-income employees. In addition, parking should be available and accessible to the facility for low- and moderate-income employees at a monthly cost not exceeding the average eight hours' wage of low- and moderate-income employees at the facility.

(d) The HUD Regional Administrator will transmit to the Regional Director, PBS, his evaluation of the sites being considered. In any case in which a proposed site is deemed inadequate on one or more grounds, i.e., supply of low- and moderate-income housing on a nondiscriminatory basis, nondiscrimination in the sale and rental of housing on the basis of race, color, religion, or national origin, or availability of transportation from housing to site, the HUD Regional Administrator shall include an outline of corrective actions which, in his judgment, will be required to overcome the inadequacies noted.

(e) The Regional Director, PBS, shall promptly notify the HUD Regional Administrator after reaching a decision on the sites to be recommended for a facility and their priority. In the event any of the preferred sites are identified by HUD as inadequate on one or more of the grounds set forth in (d), the HUD Regional Administrator shall promptly so advise the Assistant Secretary for Equal Opportunity. The Assistant Secretary will notify the Commissioner, Public Buildings Service, GSA, of HUD's concerns within

5 working days after notification to the HUD Regional Administrator. The Assistant Secretary and the Commissioner will agree on the time required to properly present HUD's views.

(f) GSA will provide a written explanation when, after Headquarters' review, a location is selected which HUD reported inadequate with respect to one or more of the grounds set forth in (d), in accordance with the HUD-GSA Memorandum of Understanding.

(g) Prior to the announcement of a site selected contrary to the recommendation of HUD, the involved Federal Agency, GSA, HUD, and the community in which the proposed site is located will utilize the items indicated in the report of the HUD Regional Administrator as a basis for developing a written Affirmative Action Plan.

The Affirmative Action Plan will ensure that an adequate supply of low- and moderate-income housing will be available on a nondiscriminatory basis, and that there is adequate transportation from housing to the site, before the building or space is to be occupied or within a period of 6 months thereafter. Such a plan will also contain appropriate provisions designed affirmatively to further nondiscrimination in the sale and rental of housing on the basis of race, color, religion, or national origin. The Affirmative Action Plan will be prepared in accordance with section 9(g) of the HUD-GSA Memorandum of Understanding, and will include, but not be limited to, the following points:

(1) The corrective actions specified by HUD under (d).

(2) Assurance of the relocating agency that, when the old and new facilities are within the same metropolitan area, transportation will be provided for its low- and moderate-income employees between the old facility or other suitable location and the new facility at the beginning and end of the scheduled workday until sufficient new housing is built accessible to the new facility, as provided in the Affirmative Action Plan.

(3) All agreements which constitute an Affirmative Action Plan will be set forth in writing and will be signed by the appropriate representatives of HUD, GSA, the Federal Agency involved, community bodies and agencies and other interests whose cooperation and/or participation will be necessary to fulfill the requirements of the plan.

(h) The contents of the Affirmative Action Plan will be made public after the final site selection decision has been made by GSA.

(i) The HUD Regional Administrator shall be responsible for monitoring compliance with the written Affirmative Action Plan. In the event of noncompliance HUD and GSA shall undertake appropriate action to secure compliance.

8. *Site investigation and selection for lease actions.* (a) In cases where the Regional Office of GSA is seeking to lease space meeting the tests set forth in 5(c) of this Circular, the Regional Director, PBS, will transmit to the HUD Regional Administrator in whose region the leased

space is to be located the following information.

(1) The number of low- and moderate-income jobs anticipated at the new or relocated facility when fully staffed.

(2) The delineated area within which lease action is anticipated.

(b) The HUD Regional Administrator, within 4 weeks or such time period as may be mutually agreed upon with the Regional Director, PBS, will:

(1) If there exists a General Area Survey (see 6(c), above), completed within the preceding 12 months.

(A) Review the delineated areas against affirmative or negative recommendations in the General Area Survey and update judgments pertaining to the extent of discrimination in the sale and rental of housing and the availability on a nondiscriminatory basis of low- and moderate-income housing in or readily accessible to the delineated areas.

(B) Make recommendations to the Regional Director, PBS, as to those areas reviewed, with respect to the matters referenced in (b) (1) (A).

(2) In the absence of a current General Area Survey the HUD Regional Administrator will:

(A) Develop a survey of the delineated area similar to the General Area Survey described in 6(c), above.

(B) Make recommendations to the Regional Director, PBS, as to those areas reviewed, with respect to the matters referenced in (b) (1) (A).

(c) Where specific sites are identified, the HUD Regional Administrator will examine them in the light of the General Area Survey and the transportation linkages between the specific sites and any housing deemed available.

(1) *Public transportation.* Public transportation should be available to the facility from any low- or moderate-income housing available on a nondiscriminatory basis on a regular schedule providing arrival and departure conveniently close to the opening and closing of business. Travel time should not exceed the estimated travel time from housing for higher-income employees.

(2) *Private transportation and parking.* Where public transportation is unavailable, or does not meet the standard of (c) (1), above, travel time by automobile to the facility from any low- or moderate-income housing available on a nondiscriminatory basis should not exceed the estimated travel time from housing for higher-income employees. In addition, parking should be available and accessible to the facility for low- and moderate-income employees at a monthly cost not exceeding the average 8 hours' wages of low- and moderate-income employees at the facility.

(d) The HUD Regional Administrator will transmit to the Regional Director, PBS, his evaluation of the delineated area. Where the delineated area (or subareas within it) is deemed inadequate on one or more grounds, i.e., supply of low- and moderate-income housing on a nondiscriminatory basis, nondiscrimination in the sale and rental of housing

on the basis of transportation from housing to site, the HUD Regional Administrator shall include an outline of corrective actions which, in his judgment, will be required to overcome the inadequacies noted.

(e) The Regional Director, PBS, shall promptly notify the HUD Regional Administrator after reaching a decision on the delineated area in which lease action will be undertaken. In the event that the area delineated (or sub-areas within it) is identified by HUD as inadequate on one or more of the grounds set forth in (d), the HUD Regional Administrator shall promptly so advise the Assistant Secretary for Equal Opportunity. The Assistant Secretary will notify the Commissioner, Public Buildings Service, GSA, of HUD's concerns within five workdays after notification to the HUD Regional Administrator. The Assistant Secretary and the Commissioner will agree on the time required to properly present HUD's views.

(f) GSA will provide a written explanation when, after Headquarters' review, GSA selects a delineated area which was wholly or in part reported by HUD as inadequate on one or more of the grounds set forth in (d), in accordance with the HUD-GSA Memorandum of Understanding.

(g) Prior to the award of a lease contract, where the entire delineated area is deemed inadequate by HUD, or the space to be leased is located within a sub-area deemed inadequate by HUD, the involved Federal Agency, GSA, HUD, and the community in which the space to be leased is located will utilize the items indicated in the report of the HUD Regional Administrator as a basis for developing a written Affirmative Action Plan.

The Affirmative Action Plan will ensure that an adequate supply of low- and moderate-income housing will be available on a nondiscriminatory basis, and that there is adequate transportation from housing to the site, before the building or space is to be occupied or within a period of six months thereafter. Such a plan will also contain appropriate provisions designed affirmatively to further nondiscrimination in the sale and rental of housing on the basis of race, color, religion, or national origin. The Affirmative Action Plan will be prepared in accordance with section 9(g) of the HUD-GSA Memorandum of Understanding and will include, but not be limited to, the following points:

(1) The corrective actions specified by HUD under (d).

(2) Assurance of the relocating agency that, when the old and new facilities are within the same metropolitan area, transportation will be provided for its low- and moderate-income employees between the old facility or other suitable location and the new facility at the beginning and end of the scheduled workday until sufficient new housing is built accessible to the new facility, as provided in the Affirmative Action Plan.

(3) All agreements which constitute an Affirmative Action Plan will be set forth in writing and will be signed by

GSA, the Federal agency involved, the lessor, community bodies and agencies and other interests whose cooperation and/or participation will be necessary to fulfill the requirements of the plan.

(h) The contents of the Affirmative Action Plan will be made public after the final site selection decision has been made by GSA.

(i) The HUD Regional Administrator shall be responsible for monitoring compliance with the written Affirmative Action Plan. In the event of noncompliance HUD and GSA shall undertake appropriate action to secure compliance.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d); title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601; sec. 2 of the Housing Act of 1949, 42 U.S.C. 1441)

Effective date: These procedures are effective upon publication in the FEDERAL REGISTER (6-7-72).

GEORGE ROMNEY,
Secretary of Housing and
Urban Development.

[FR Doc.72-8537 Filed 6-6-72; 8:50 am]

GENERAL SERVICES ADMINISTRATION

SELECTION OF SITES FOR FEDERAL BUILDINGS

Consideration of Socioeconomic Impact

Notice is hereby given that the Public Buildings Service has issued the following procedures to its employees for implementing the Memorandum of Understanding Between the Department of Housing and Urban Development (HUD) and the General Services Administration (GSA) Concerning Low and Moderate Income Housing. Proposed procedures were published in the FEDERAL REGISTER December 1, 1971, 36 F.R. 22873.

Comments were received from the Department of Housing and Urban Development, the U.S. Commission on Civil Rights and from four other non-Federal organizations. Many comments related to the necessity for procedures to be issued by the Department of Housing and Urban Development, and those comments, as well as all others received by GSA, were referred to that Department for appropriate action. The HUD procedures have been developed and are also published.

A comment was received recommending that the procedures apply to all lease and utilization actions. GSA and HUD agreed that this was administratively impossible and instead adopted rules for determining which cases are significant, thus permitting more effective utilization of the resources of the two departments to concentrate on the more significant actions, that is, those involving a substantial number of low- and moderate-income employees. Comments were received which suggested that discrimina-

practices in the area should be reported to GSA and HUD. The revised procedures provide for such investigations and call for a report by HUD to GSA on such practices.

Comments were received recommending that GSA should not be permitted to proceed when HUD has reported inadequacy of low- and moderate-income housing. This comment must be rejected, since by statute and Executive order, GSA has the authority and responsibility for making final location determinations for the construction of Federal buildings and the acquisition of leased space and must take into account factors other than those which are the subject of the memorandum of understanding.

A recommendation was received which proposed making the employees participants in the location of selecting decisions. This recommendation was rejected on the basis that such decisions are management prerogatives. However, the memorandum of understanding provides for provision of special employee counseling and referral service by the agencies involved.

Dated: June 2, 1972.

A. F. SAMPSON,
Commissioner,
Public Building Service.

[PBS 7000.11]
GSA ORDER

JUNE 2, 1972.

SUBJECT: Availability of low- and moderate-income housing—DHUD/GSA Memorandum of Understanding of June 12, 1971.

1. Purpose. This order provides procedures for implementing the memorandum agreement between the Department of Housing and Urban Development (HUD) and the General Services Administration (GSA).

2. Background. Executive Order 11512 of February 27, 1970, provides guidance for the planning, acquisition, and management of Federal space. Executive Order No. 11512 supersedes Executive Order No. 11035 of July 9, 1962.

3. Agreement with Secretary of Housing and Urban Development. In further implementation of sections 2(a) (2) and (6) of Executive Order 11512, the Administrator, General Services Administration, entered into an agreement with the Secretary of Housing and Urban Development (HUD) to utilize the Department of Housing and Urban Development (HUD) to investigate, determine, and report findings to GSA on the availability of low- and moderate-income housing on a nondiscriminatory basis with respect to site selections and major lease actions having a significant socioeconomic impact on a community. Under the agreement, HUD will advise GSA on the availability of low- and moderate-income housing in connection with locating Federal facilities. HUD will also advise GSA and other Federal agencies with respect to actions which would increase the availability of low- and moderate-income housing on a nondiscriminatory basis, as well as to assist in increasing the availability of such housing through its own programs. The text of the agreement is included in figure 1.

4. Definitions—a. Low and moderate income. Equal to or less than the median family income established by HUD for the housing market area under consideration. In the case of General Salary Schedule employees: "low and moderate income" is inclusive of all grade levels from GS-1 through that grade

level the midpoint of the dollar figure of the median family income for the area.

b. *Regional Director, PBS.* References to the Regional Director, PBS, shall be construed to mean, also, the Assistant Commissioner for Operating Programs for all actions to acquire space in the States of Pennsylvania, Maryland, Delaware, Virginia, West Virginia, and the District of Columbia.

5. *Obtaining socioeconomic data.* a. The Regional Director, PBS, is responsible for obtaining data and advice from the regional offices of the Department of Housing and Urban Development; Health, Education, and Welfare; Commerce; and others, as appropriate.

b. GSA regional requests for consultation, advice, or reports shall be in writing and shall request a reply in writing. Requests to HUD shall be directed to the Regional Administrator, HUD.

6. *Classifications for actions to which HUD-GSA Memorandum of Understanding applies.* The actions described in this paragraph are subject to the provisions of the HUD-GSA Memorandum of Understanding and the procedures which follow.

a. All project development investigations. b. *Site selections for public buildings (or leased space in buildings to be erected by the lessor) in which 100 or more low- or moderate-income employees are expected to be employed in the new building.*

c. *Lease actions (other than those included in b.) where:*

(1) One hundred or more low- or moderate-income employees are expected to be employed in the space to be leased; and

(2) The lease involves residential relocation of a majority of the existing low- and moderate-income work force; a significant increase in their transportation or parking costs; or travel time to the new location will exceed 45 minutes, or a twenty-percent increase if travel time to the present facility already exceeds an average of 45 minutes.

d. GSA requests HUD review in lease actions of special importance not covered by (b) and (c).

7. *Project development investigation.* a. Prior to undertaking project development surveys for the purpose of identifying specific needs for Federal or lease construction or major alteration for housing Federal activities, the Regional Director, PBS, will inform the Regional Administrator, HUD, of the initiation of a project development investigation and the areas being surveyed and request information relating to present and planned availability of low- and moderate-income housing on a nondiscriminatory basis in the area where such a project might be located. This data will constitute the basic information concerning housing considerations at this stage of project planning. The HUD Regional Administrator will develop and transmit to the Regional Director, PBS, a report on the survey area which includes the following information:

(1) Summary information on general type, location, cost, and vacancy rates for all housing in the survey area. Recent FHA market analyses are acceptable for this purpose.

(2) A listing, by location, of all HUD subsidized housing in the survey area. The racial occupancy of such housing and its vacancy rate should be included. (Use data from HUD Forms 9801 and 51235.)

(3) An estimate, by location, of all other low- and moderate-income housing in the survey area which would meet the standards for relocation housing contained in the HUD Relocation Handbook (1371.1) chapters 2 and 4. The racial occupancy of such housing, or the neighborhood in which it is located, should be included, as well as vacancy rates.

(4) A listing, by location, of all subsidized housing planned within the survey area for the 1-year period following the survey.

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needs for the subsidized housing planned in (4).

(6) A delineation of the geographic boundaries of all urban renewal, neighborhood development project, code enforcement, and model cities areas.

(7) A delineation of those subareas within the survey area which appear accessible to a supply of low- and moderate-income housing on a nondiscriminatory basis, and those which do not so appear.

(8) A determination of the extent of discrimination in the sale and rental of housing.

b. The PBS regional Operational Planning staff will prepare the Project Development Report which will delineate the general area or areas for the project. The Regional Administrator of HUD will be advised at the earliest possible time with respect to such decision.

c. The Office of Operational Planning shall be responsible for providing to the Headquarters office of HUD copies of all prospectuses approved by the Public Works Committees of the Congress.

8. *Site investigation and selection for new construction.* a. Upon receipt of a site investigation directive, the Regional Director, PBS, shall initiate necessary actions in accordance with other PBS directives. The site investigation directive will delineate the area or areas in which the proposed project will be located. The Regional Director, PBS, is required to provide advance notice of the site investigation to State and local governments, clearinghouses, and local elected officials. At the same time, the Regional Administrator, HUD, in whose region the facility is to be located will be informed of the planned site investigation, will be provided with a copy of the site investigation directive, and will be requested to designate an appropriate HUD official to participate in the site investigation work. The HUD representative will be required to survey, determine, and furnish GSA with a written report on availability of low- and moderate-income housing on a nondiscriminatory basis and the accessibility of such housing to the delineated area(s) in which the proposed building will be located. The Regional Director, PBS, will transmit to the HUD Regional Administrator in whose region the facility is to be located the following information:

(1) The number of low- and moderate-income jobs anticipated at new or relocated facilities when fully staffed.

(2) The delineated area within which specific sites will be considered or the sites under consideration.

b. The HUD Regional Administrator, within a time period mutually agreed upon with the Regional Director, PBS, will:

(1) Upon the existence of a current General Area Survey (See 7a) (completed within the preceding 12 months):

(a) Review the delineated areas against affirmative or negative recommendations in the General Area Survey and update judgments pertaining to the extent of discrimination in the sale and rental of housing and the availability on a nondiscriminatory basis of low- and moderate-income housing in or readily accessible to the delineated areas.

(b) Make recommendations to the Regional Director, PBS, as to those areas reviewed, with respect to the matters referenced in b(1)(a).

(2) In the absence of a current General Area Survey the HUD Regional Administrator will:

(a) Develop a survey of the delineated area similar to the General Area Survey described in 7a.

(b) Make recommendations to the Regional Director, PBS, as to those areas reviewed, with respect to the matters referenced in b(1)(a).

sites are identified, the HUD Regional Administrator will examine them in the light of the General Area Survey and the transportation linkages between the specific sites and any housing deemed available.

(1) *Public transportation.* Public transportation should be available to the facility from any low- or moderate-income housing deemed nondiscriminatory on a scheduled basis providing arrival and departure conveniently close to the opening and closing of business. Travel time should not exceed the estimated travel time from housing for higher-income employees.

(2) *Private transportation and parking.* Where public transportation is unavailable, or does not meet the standard of c(1), travel time by automobile to the facility from any low- or moderate-income housing deemed nondiscriminatory should not exceed the estimated travel time from housing for higher-income employees. In addition, parking should be available and accessible to the facility for low- and moderate-income employees at a monthly cost not exceeding the average 8 hours' wage of low- and moderate-income employees at the facility.

d. The HUD Regional Administrator will transmit to the Regional Director, PBS, his evaluation of the sites being considered. In any case in which a proposed site is deemed inadequate on one or more grounds, i.e., supply of low- and moderate-income housing on a nondiscriminatory basis, nondiscrimination in the sale and rental of housing on the basis of race, color, religion, or national origin, or availability of transportation from housing to site, the HUD Regional Administrator shall include an outline of corrective actions which, in his judgment, will be required to overcome the inadequacies noted.

e. The Regional Director, PBS, shall promptly notify the HUD Regional Administrator after reaching a decision on the sites to be recommended for a facility and their priority. In the event any of the preferred sites are identified by HUD as inadequate on one or more of the grounds set forth in d, the HUD Regional Administrator shall so advise the Assistant Secretary for Equal Opportunity. The Assistant Secretary will notify the Commissioner, Public Buildings Service, GSA, of HUD's concerns within 5 workdays after notification to the HUD Regional Administrator and agree on the time required to properly present HUD's views.

f. GSA will provide a written explanation when, after Headquarters' review, a location is selected which HUD reported inadequate with respect to one or more of the grounds set forth in d, in accordance with the HUD-GSA Memorandum of Understanding.

g. Prior to the announcement of a site selected contrary to the recommendation of HUD, the involved Federal agency, GSA, HUD, and the community in which the proposed site is located will utilize the items indicated in the report of the HUD Regional Administrator as a basis for developing a written Affirmative Action Plan. The Affirmative Action Plan will ensure that an adequate supply of low- and moderate-income housing will be available on a nondiscriminatory basis, and that there is adequate transportation from housing to the site, before the building or space is to be occupied or within a period of 6 months thereafter. Such a plan will also contain appropriate provisions designed affirmatively to further nondiscrimination in the sale and rental of housing on the basis of race, color, religion or national origin. The Affirmative Action Plan will be prepared in accordance with section 9(g) of the HUD-GSA Memorandum of Understanding, and will include, but not be limited to, the following points:

(1) The corrective actions specified by HUD under d;

(2) Assurance of the relocating agency that when the old and new facilities are

within the same metropolitan area, transportation will be provided for their low- and moderate-income employees between the old facility or other suitable location and the new facility at the beginning and end of the scheduled workday until sufficient new housing is built accessible to the new facility, as provided in the Affirmative Action Plan; and

(3) All agreements which constitute an Affirmative Action Plan will be set forth in writing and will be signed by the appropriate representatives of HUD, GSA, the Federal agency involved, community bodies and agencies, and other interests whose cooperation and/or participation will be necessary to fulfill the requirements of the plan.

h. The contents of the Affirmative Action Plan will be made public after the final site selection decision has been made by GSA.

i. The HUD Regional Administrator shall be responsible for monitoring compliance with the written Affirmative Action Plan. In the event of non-compliance HUD and GSA shall undertake appropriate action to secure compliance.

9. *Lease actions.* a. For lease actions where the regional office of GSA or the Office of Operating Programs is seeking to lease space meeting the tests set forth in 6c, the Regional Director, PBS, and the regional Assignment and Utilization (A&U) Branch shall be responsible for delineating the area for lease actions consistent with 41 CFR 101-18.102, so as to exert, to the greatest extent practicable, a positive economic and social influence on the development and redevelopment of areas in which such facilities are to be located. The area circumscribed thereby shall be sufficiently large to assure full and free participation by potential offerors. In determining this area, A&U shall consult with the agency to be housed, the Acquisition Branch, and the Operational Planning staff.

b. Whenever an agency initiates a space request which will result in a lease action as defined in 6c, the GSA Regional Director, PBS, shall contact the HUD Regional Administrator in whose region the leased space is to be located and provide the following information if available:

(1) The number of low- and moderate-income jobs anticipated at the new or relocated facility when fully staffed; and

(2) The delineated area within which lease action is anticipated.

c. The HUD Regional Administrator, within 4 weeks, or such time period as may be mutually agreed upon with the Regional Director, PBS, will:

(1) Upon the existence of a current General Area Survey (see 7a) completed within the preceding 12 months:

(a) Review the delineated areas against affirmative or negative recommendations in the General Area Survey and update judgments pertaining to the extent of discrimination in the sale and rental of housing and the availability on a nondiscriminatory basis of low- and moderate-income housing in or readily accessible to the delineated areas; and

(b) Make recommendations to the Regional Director, PBS, as to those areas reviewed, with respect to the matters referenced in 8b(1)(a).

(2) In the absence of a current General Area Survey the HUD Regional Administrator will:

(a) Develop a survey of the delineated area similar to the General Area Survey described in 7a; and

(b) Make recommendation to the Regional Director, PBS, as to those areas reviewed, with respect to the matters referenced in 8b(1)(a).

d. Where specific sites are identified, the HUD Regional Administrator will examine them in the light of the General Area Survey and the transportation linkages between the specific sites and any housing deemed available.

transportation should be available to the facility from any low- or moderate-income housing deemed nondiscriminatory on a scheduled basis providing arrival and departure conveniently close to the opening and closing of business. Travel time should not exceed the estimated travel time from housing for higher income employees.

(2) *Private transportation and parking.* Where public transportation is unavailable, or does not meet the standard of d(1), travel time by automobile to the facility from any low- or moderate-income housing deemed nondiscriminatory should not exceed the estimated travel time from housing for higher income employees. In addition, parking should be available and accessible to the facility for low- and moderate-income employees at a monthly cost not exceeding the average 8 hours' wage of low- and moderate-income employees at the facility.

e. The HUD Regional Administrator will transmit to the Regional Director, PBS, his evaluation of the delineated area. Where the delineated area (or subareas within it) is deemed inadequate on one or more grounds, i.e., supply of low- and moderate-income housing on a nondiscriminatory basis, nondiscrimination in the sale and rental of housing on the basis of race, color, religion, or national origin, or availability of transportation from housing to site, the HUD Regional Administrator shall include an outline of corrective actions which, in his judgment, will be required to overcome the inadequacies noted.

f. The Regional Director, PBS, shall promptly notify the HUD Regional Administrator after reaching a decision on the delineated area in which lease action will be undertaken. In the event that the area delineated (or subareas within it) is identified by HUD as inadequate on one or more of the grounds set forth in e, the HUD Regional Administrator shall so advise the Assistant Secretary for Equal Opportunity. The Assistant Secretary will notify the Commissioner, Public Buildings Service, GSA, of HUD's concerns within 5 workdays after notification by GSA to the HUD Regional Administrator, agree on the time required to properly present HUD's views.

g. GSA will provide a written explanation when, after headquarters' review, GSA selects a delineated area which was wholly or in part reported by HUD as inadequate on one or more of the grounds set forth in e, in accordance with the HUD-GSA Memorandum of Understanding.

h. Prior to the award of a lease contract, where the entire delineated area is deemed inadequate by HUD, or the space to be leased is located within a subarea deemed inadequate by HUD, the involved Federal agency, GSA, HUD, and the community in which the space to be leased is located will utilize the items indicated in the report of the HUD Regional Administrator as a basis for developing a written Affirmative Action Plan. The Affirmative Action Plan will insure that an adequate supply of low- and moderate-income housing will be available on a nondiscriminatory basis, and that there is adequate transportation from housing to the site, before the building or space is to be occupied or within a period of 6 months thereafter. Such a plan will also contain appropriate provisions designed affirmatively to further nondiscrimination in the sale and rental of housing on the basis of race, color, religion, or national origin. The affirmative Action Plan will be prepared in accordance with section 9(g) of the HUD-GSA Memorandum of Understanding, and will include, but not be limited to, the following points:

(1) The corrective actions specified by HUD under d;

(2) Assurance of the relocating agency that when the old and new facilities are

metropolitan area, transportation will be provided for their low- and moderate-income employees between the old facility or other suitable location and the new facility at the beginning and end of the scheduled workday until sufficient new housing is built accessible to the new facility, as provided in the Affirmative Action Plan; and

(3) All agreements which constitute an Affirmative Action Plan will be set forth in writing and will be signed by the designated representatives of HUD, GSA, the Federal agency involved, the lessor, community bodies and agencies, and other interests whose cooperation and/or participation will be necessary to fulfill the requirements of the plan.

i. The contents of the Affirmative Action Plan will be made public after the final site selection decision has been made by GSA.

j. The HUD Regional Administrator shall be responsible for monitoring compliance with the written Affirmative Action Plan. In the event of noncompliance HUD and GSA shall undertake appropriate action to secure compliance.

A. F. SAMPSON,
Commissioner,
Public Buildings Service.

PURPOSE: The purpose of the Memorandum of Understanding is to provide an effective, systematic arrangement under which the Federal Government, acting through HUD and GSA, will fulfill its responsibilities under law, and, as a major employer, in accordance with the concepts of good management, to assure for its employees the availability of low- and moderate-income housing without discrimination because of race, color, religion, or national origin, and to consider the need for development and redevelopment of areas and the development of new communities and the impact on improving social and economic conditions in the area, whenever Federal Government facilities locate or relocate at new sites, and to use its resources and authority to aid in the achievement of these objectives.

1. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601) states, in section 801, that "It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States." Section 808(a) places the authority and responsibility for administering the Act in the Secretary of Housing and Urban Development. Section 808(d) requires all executive departments and agencies to administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of title VIII (fair housing) and to cooperate with the Secretary to further such purposes. Section 808(e) (5) provides that the Secretary of HUD shall administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of title VIII.

2. Section 2 of the Housing Act of 1949 (42 U.S.C. 1441) declares the national policy of "the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family." This goal was reaffirmed in the Housing and Urban Development Act of 1968 (secs. 2 and 1601; 12 U.S.C. 1701t and 42 U.S.C. 1441a).

3. By virtue of the Public Buildings Act of 1959, as amended; the Federal Property and Administrative Services Act of 1949, as amended; and Reorganization Plan No. 18 of 1950, the Administrator of General Services is given certain authority and responsibility in connection with planning, developing, and constructing Government-owned public buildings for housing Federal agencies, and for acquiring leased space for Federal agency use.

Approved For Release 2001/08/09 : CIA-RDP86-01019R000200170026-8

4. Executive Order No. 11512, February 1970, sets forth the policies by which the Administrator of General Services and the heads of executive agencies will be guided in the acquisition of both federally owned and leased office buildings and space.

5. While Executive Order No. 11512 provides that material consideration will be given to the efficient performance of the missions and programs of the executive agencies and the nature and functions of the facilities involved, there are six other guidelines set forth, including:

The need for development and redevelopment of areas and the development of new communities, and the impact a selection will have on improving social and economic conditions in the area; and

The availability of adequate low and moderate income housing, adequate access from other areas of the urban center, and adequacy of parking.

6. General Services Administration (GSA) recognizes its responsibility, in all its determinations with respect to the construction of Federal buildings and the acquisition of leased space, to consider to the maximum possible extent the availability of low and moderate income housing without discrimination because of race, color, religion, or national origin, in accordance with its duty affirmatively to further the purposes of Title VIII of the Civil Rights Act of 1968 and with the authorities referred to in paragraph 2 above, and the guidelines referred to in paragraph 5 above, and consistent with the authorities cited in paragraphs 3 and 4 above. In connection with the foregoing statement, it is recognized that all the guidelines must be considered in each case, with the ultimate decision to be made by the Administrator of General Services upon his determination that such decision will improve the management and administration of governmental activities and services, and will foster the programs and policies of the Federal Government.

7. In addition to its fair housing responsibilities, the responsibilities of HUD include assisting in the development of the Nation's housing supply through programs of mortgage insurance, home ownership and rental housing assistance, rent supplements, below market interest rates, and low-rent public housing. Additional HUD program responsibilities which relate or impinge upon housing and community development include comprehensive planning assistance, metropolitan area planning coordination, new communities, relocation, urban renewal, model cities, rehabilitation loans and grants, neighborhood facilities grants, water and sewer grants, open space, public facilities loans, Operation Breakthrough, code enforcement, workable programs, and others.

8. In view of its responsibilities described in paragraphs 1 and 7 above, HUD possesses the necessary expertise to investigate, determine, and report to GSA on the availability of low and moderate income housing on a nondiscriminatory basis and to make findings as to such availability with respect to proposed locations for a federally constructed building of leased space which would be consistent with such reports. HUD also possesses the necessary expertise to advise GSA and other Federal agencies with respect to actions which would increase the availability of low and moderate income housing on a nondiscriminatory basis, once a site has been selected for a federally constructed building or a lease executed for space, as well as to assist in increasing the availability of such housing through its own programs such as those described in paragraph 7 above.

9. HUD and GSA agree that:

(a) GSA will pursue the achievement of low and moderate-income housing objectives and fair housing objectives, in accord-

with paragraph 6 above, in all determinations, tentative and final, with respect to the location of both federally constructed buildings and leased buildings and space, and will make all reasonable efforts to make this policy known to all persons, organizations, agencies and others concerned with federally owned and leased buildings and space in a manner which will aid in achieving such objectives.

(b) In view of the importance to the achievement of the objectives of this memorandum of agreement of the initial selection of a city of delineation of a general area for location of public buildings of leased space, GSA will provide the earliest possible notice to HUD of information with respect to such decisions so that HUD can carry out its responsibilities under this memorandum of agreement as effectively as possible.

(c) Government-owned Public Buildings Projects:

(1) In the planning for each new public buildings project under the Public Buildings Act of 1959, during the survey preliminary to the preparation and submission of a project development report, representatives of the regional office of GSA in which the project is proposed will consult with, and receive advice from, the regional office of HUD, and local planning and housing authorities concerning the present and planned availability of low- and moderate-income housing on a nondiscriminatory basis in the area where the project is to be located. Such advice will constitute the principal basis for GSA's consideration of the availability of such housing in accordance with paragraphs 6 and 9(a). A copy of the prospectus for each project which is authorized by the Committee on Public Works of the Congress in accordance with the requirements of section 7(a) of the Public Buildings Act of 1959, will be provided to HUD.

(2) When a site investigation for an authorized public buildings project is conducted by regional representatives of GSA to identify a site on which the public building will be constructed, a representative from the regional office of HUD will participate in the site investigation for the purposes of providing a report on the availability of low- and moderate-income housing on a nondiscriminatory basis in the area of the investigation. Such report will constitute the principal basis for GSA's consideration of the availability of such housing in accordance with paragraphs 6 and 9(a).

(d) Major lease actions having a significant socioeconomic impact on a community. At the time GSA and the agencies who will occupy the space have tentatively delineated the general area in which the leased space must be located in order that the agencies may effectively perform their missions and programs, the regional representative of HUD will be consulted by the regional representative of GSA who is responsible for the leasing action to obtain advice from HUD concerning the availability of low- and moderate-income housing on a nondiscriminatory basis to the delineated area. Such advice will constitute the principal basis for GSA's consideration of the availability of such housing in accordance with paragraphs 6 and 9(a). Copies of lease-construction prospectuses approved by the Committee on Public Works of the Congress in conformity with the provisions of the Independent Offices and Department of Housing and Urban Development appropriation acts, will be provided to HUD.

(e) GSA and HUD will each issue internal operating procedures to implement this memorandum of understanding within a reasonable time after its execution. These procedures shall recognize the right of HUD, in the event of a disagreement between HUD

and GSA, to bring such disagreement to the attention of GSA officials at headquarters in sufficient time to assure full consideration of HUD's views, prior to the making of a determination by GSA.

(f) In the event a decision is made by GSA as to the location of a federally constructed building or leased space, and HUD has made findings, expressed in the advice given or a report made to GSA, that the availability to such location of low and moderate income housing on a nondiscriminatory basis is inadequate, the GSA shall provide the HUD with a written explanation why the location was selected.

(g) Whenever the advice or report provided by HUD in accordance with paragraph 9(c) (1), 9(c) (2), or 9d with respect to an area or site indicates that the supply of low and moderate income housing on a nondiscriminatory basis is inadequate to meet the needs of the personnel of the agency involved, GSA and HUD will develop an affirmative action plan designed to insure that an adequate supply of such housing will be available before the building or space is to be occupied or within a period of 6 months thereafter. The plan should provide for commitments from the community involved to initiate and carry out all feasible efforts to obtain a sufficient quantity of low and moderate income housing available to the agency's personnel on a nondiscriminatory basis with adequate access to the location of the building or space. It should include commitments by the local officials having the authority to remove obstacles to the provisions of such housing, when such obstacles exist, and to take effective steps to assure its provision. The plan should also set forth the steps proposed by the agency to develop and implement a counseling and referral service to seek out and assist its personnel to obtain such housing. As part of any plan during, as well as after its development, HUD agrees to give priority consideration to application for assistance under its housing programs for the housing proposed to be provided in accordance with the plan.

10. This memorandum will be reviewed at the end of 1 year, and modified to incorporate any provision necessary to improve its effectiveness in light of actual experience.

Dated: June 11, 1971.

ROBERT L. KUNZIG,
Administrator,
General Services Administration.

Dated: June 12, 1971.

GEORGE ROMNEY,
Secretary, Department of Housing
and Urban Development.

[FR Doc. 72-8536 Filed 6-5-72; 10:02 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 72-8]

EARTH RESOURCES SURVEY IMAGERY POLICY

Public Availability of Photographic Products

The following NASA policy with respect to earth resources survey imagery has been agreed to by the Departments of Interior, Commerce, Agriculture, and Navy, and the Environmental Protection Agency.